

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

RODNEY WAYNE JONES,
CDCR #D-55894,

Plaintiff,

vs.

STUART J. RYAN, et al.,

Defendants.

Civil No. 07-1019 BTM (JMA)

**ORDER DENYING PLAINTIFF'S
MOTION FOR RELIEF FROM
COURT'S JUNE 26, 2009 ORDER
PURSUANT TO FED.R.CIV.P. 60(b)**

[Doc. No. 111]

I. PROCEDURAL HISTORY

Plaintiff, an inmate currently incarcerated at California State Prison located in Corcoran, California, and proceeding pro se, filed a First Amended Complaint ("FAC") pursuant to 42 U.S.C. § 1983 [Doc. No. 59]. Defendants Ryan, Ochoa, Jimenez, Zills, Schommer, Ortiz, Rodiles, Mejia, Sandoval, Wells, Castaneda, Cosio, Flores, Ritter, Bell, Anadalon, Harmon, Duarte, Stratton, Price, Martinez, Valenzuela and Rangel filed Motions to Dismiss Plaintiff's First Amended Complaint pursuant to FED.R.CIV. P. 12(b)(6) [Doc. Nos. 63, 95]. In addition, Defendant Pegues filed a Notice of Joinder and Joinder to Defendants' Motions to Dismiss Plaintiff's First Amended Complaint [Doc. No. 64].

1 On June 26, 2009, this Court granted in part and denied in part Defendants' Motions to
2 Dismiss Plaintiff's First Amended Complaint. *See* June 26, 2009 Order at 18-19. Plaintiff has
3 now filed a "Motion for Relief from the Court's June 26, 2009 Order" in which he challenges
4 the Court's ruling as to his Fourteenth Amendment due process claims against Defendants
5 Andalon, Mejia, Sandoval, Castaneda, Cosio, Bell, Ochoa, Price and Stratton. *See* Pl.'s Mot.
6 at 1-9. [Doc. No. 111]. Defendants filed an Opposition on November 12, 2009. [Doc. No. 113.]

7 **II. PLAINTIFF'S MOTION FOR RELIEF FROM THE COURT'S JUNE 26, 2009 ORDER**

8 Under Rule 60(b), a motion for "relief from judgment or order" may be filed within a
9 "reasonable time," but usually must be filed "not more than one year after the judgment, order,
10 or proceeding was entered or taken." FED.R.CIV.P. 60(b). Reconsideration under Rule 60 may
11 be granted in the case of: (1) mistake, inadvertence, surprise or excusable neglect; (2) newly
12 discovered evidence; or (3) fraud; or if (4) the judgment is void; (5) the judgment has been
13 satisfied; or (6) for any other reason justifying relief. FED.R.CIV. P. 60(b).

14 Here, Plaintiff seeks to address the Court's June 26, 2009 Order dismissing his Fourteenth
15 Amendment due process claims. In Plaintiff's First Amended Complaint, he alleged that his
16 Fourteenth Amendment due process rights were violated by the alleged false reports and
17 perjured testimony by Defendants that led to criminal charges being brought against him in
18 Imperial County. The Court found in the June 26, 2009 Order that these claims were not yet
19 cognizable pursuant to the favorable termination doctrine set forth in *Heck v. Humphrey*, 512
20 U.S. 477, 486-87 (1994). *See* June 26, 2009 Order at 10. ("These Fourteenth Amendment due
21 process claims amount to an attack on the constitutional validity of his ongoing state criminal
22 proceedings, and therefore, may not be maintained pursuant to 42 U.S.C. § 1983 unless and
23 until he can show that conviction has already been invalidated.") Plaintiff had also claimed in
24 his First Amended Complaint that he had never been subject to a disciplinary hearing based on
25 these false reports. *See* FAC ¶ 100.

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1 In his Motion seeking relief from the Court's Order, Plaintiff claims that his Fourteenth
 2 Amendment due process claims are now cognizable because all the criminal charges against him
 3 have been dismissed. *See* Pl.'s Mot. at 5. However, Plaintiff does now claim that due to
 4 Defendants' "issuance of false reports and perjured testimony" he was "subsequently unjustly
 5 found guilty of battery on staff during a 'wanton and prejudicial' disciplinary hearing." *Id.* at
 6 6. As a result, Plaintiff lost good time credits and was sentenced to the "SHU"¹ for nearly four
 7 years. *Id.*

8 However, these claims are also barred by the favorable termination doctrine set forth in
 9 *Heck*. Constitutional claims involving a prison's disciplinary decisions to revoke good-time
 10 credits are subject to dismissal since habeas corpus is the exclusive federal remedy whenever
 11 the claim for damages depends on a determination that a disciplinary judgment is invalid or the
 12 sentence currently being served is unconstitutionally long. *Edwards v. Balisok*, 520 U.S. 641,
 13 646 (1997); *Heck*, 512 U.S. at 486-87 (1994); *Preiser v. Rodriguez*, 411 U.S. 475, 500 (1973).

14 Here, Plaintiff cannot bring these Fourteenth Amendment due process claims which relate
 15 to the constitutionality or duration of his continued confinement in that he now admits that he
 16 lost good-time credit as the result of a disciplinary conviction. *See* Pl.'s Mot. at 6. Plaintiff was
 17 informed in the Court's previous Orders that in order to state a claim for damages under section
 18 1983 on this claim under *Heck* and *Edwards*, Plaintiff must first show that the disciplinary
 19 conviction or sentence has already been "reversed on direct appeal, expunged by executive
 20 order, declared invalid by a state tribunal authorized to make such a determination, or called into
 21 question by a writ of habeas corpus." *Heck*, 512 U.S. at 486-87. He has failed to do so, and
 22 thus, there is no basis by which the Court could permit Plaintiff to proceed on these Fourteenth
 23 Amendment due process claims.

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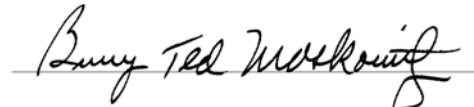
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28 ¹ "SHU" is an acronym for the segregated housing unit.

1 **III. CONCLUSION AND ORDER**

2 Based on the foregoing, IT IS HEREBY ORDERED that Plaintiff's Motion for Relief
3 from the Court's June 26, 2009 Order [Doc. No. 111] pursuant to FED.R.Civ.P. 60(b) is
4 **DENIED.**

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6 DATED: December 15, 2009

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8 Honorable Barry Ted Moskowitz
9 United States District Judge
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